



IAC-AH-DN-V1

**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/07665/2015

THE IMMIGRATION ACTS

Heard at Bradford

On 9 February 2016

**Decision & Reasons
Promulgated
On 12 April 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**M B
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Tetty, instructed by Switalskis, Solicitors

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** The appellant, MB, was born in 1986 and claims to be a citizen of Eritrea. The appellant's claim for asylum was rejected by the respondent who also ordered that she should be removed from the United Kingdom by a decision dated 16 April 2015. The appellant appealed to the First-tier Tribunal (Judge J M Holmes) which, in a decision promulgated on 6 July

2015 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The grounds of appeal to the Upper Tribunal at [7] criticise the judge for having found [27] that the appellant had been unable to produce documentary evidence of the farm which she helped to run in Eritrea. The grounds assert that this aspect of the case was not material to the findings on credibility. I disagree. The judge has properly considered all the evidence and there is no suggestion that he has attached particular importance to the farm activities in any way which may properly be described as peripheral to her main claim for asylum. It was reasonable for the judge to question why the appellant had failed to produce evidence from Eritrea (there is no suggestion of the judge criticising her failing to bring evidence with her when she fled) which could have assisted in establishing the background to her claim. The point made by the judge is that such evidence *could* without unreasonable difficulty have been obtained by the appellant whilst she was living in the United Kingdom. It was open to the judge to find that the appellant had not done so because she was aware that the documents would not corroborate her evidence.
3. At [29], the judge recorded that, “The appellant denies ever having been required to perform a period of national service. This evidence is simply not consistent with the evidence reviewed in *MA* and *MO* and I am not satisfied that it is true.” The grounds of appeal set out *in extenso* the evidence considered by the Upper Tribunal in the country guidance case of *MA (draft evaders; illegal departure; risk) Eritrea CG* [2007] UKAIT 00059. The argument advanced in the grounds is that the case of *MA* and that of *MO* do not address the “efficiencies or otherwise of the drafting process.” The judge noted that the appellant never claimed to have been issued with any “document formally exempting her from national service.” She also denied having been issued with an identity card until after she was married. I am satisfied that these are matters to which the country guidance cases referred and that the background material upon which those cases and others have been based was not consistent with the appellant’s claims both as regards national service and any possible exemption from national service. It was reasonable for the judge to assume that a young woman of the appellant’s age would have been required to perform a period of national service; I do not see why the possible failure of the country guidance cases to address inefficiencies in the drafting system (that is, whether anyone may have “slipped through the net”.) should undermine the judge’s finding.
4. The arguments at paragraphs [9-12] of the grounds are, in my opinion, no more than a series of disagreements with findings made by the judge. The judge is accused of having “substituted his reasoning for those of others [including the appellant].” I disagree. The judge has throughout applied the standard of reasonable likelihood there was nothing to prevent him from finding aspects of the appellant’s claim not to be reasonably likely.

5. The judge is also criticised at [51-52] regarding the question of the appellant's removal to Eritrea. The judge saw no difficulty in the appellant being required to pay the 2% diaspora tax upon return and relied on background material which indicated that the appellant may be able to obtain her own Eritrean passport and thereby avoid returning to Eritrea on an emergency travel document. Considering that the appellant did obtain a passport, she would not have to deal with any perception on the part of the receiving authorities that she was a failed asylum seeker who had made an illegal exit from the country. I find that the judge did not err in that analysis for the reasons given in the grounds of appeal or at all.
6. Viewed as a whole, the judge's decision is carefully and closely reasoned. His findings are not perverse as the grounds appear to suggest and I considered uncogent. I find that the judge has not seriously erred in law either for the reasons stated in the grounds or at all. The appeal is dismissed.

Notice of Decision

7. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

8. Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 20 March 2016

Upper Tribunal Judge Clive Lane